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The City of New York

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

----- X

CALIFORNIA RESTAURANT ASSOCIATION,

Plaintiff,

-against-

THE CITY AND COUNTY OF SAN FRANCISCO, and
THE SAN FRANCISCO DEPARTMENT OF HEALTH

Defendants.

CASE NO. CV-08-3247CW

**STIPULATION AND
[PROPOSED] ORDER
GRANTING THE CITY OF
NEW YORK LEAVE TO
FILE AN AMICUS BRIEF**

(Civil Local Rule 7.12)

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STIPULATION

WHEREAS, plaintiff California Restaurant Association ("plaintiff") has filed a Complaint against the City and County of San Francisco and the San Francisco Department of Public Health ("defendants") challenging Ordinance 40-08 ("the Ordinance"), which requires restaurants in San Francisco with twenty or more establishments in the State of California to display certain nutritional information on menu boards and menus in a manner prescribed by the Ordinance;

WHEREAS, plaintiff has filed a Motion for Declaratory Relief and a Preliminary Injunction ("Motion") challenging the Ordinance;

WHEREAS, the New York State Restaurant Association ("NYSRA") has challenged New York City Health Code Section 81.50 which requires restaurants which have 15 or more establishments nation-wide to post calorie information on their menus and menu boards and the NYSRA's appeal from the order of District Court for the Southern District of New York denying its motion for declaratory and preliminary injunctive relief is sub judice;

WHEREAS, the City of New York seeks permission to file an amicus brief in support of the defendants in this proceeding and whereas other governmental entities and associations may join or sign onto the City of New York's amicus brief;

WHEREAS, the City of New York believes that its experience implementing New York City Health Code Section 81.50 – the only menu labeling law to be implemented in the United States to date - may assist the Court in resolving the issues presented in plaintiff's Motion;

WHEREAS, plaintiff has consented to the City of New York's request for leave to file an amicus brief, on the condition that the City of New York files its brief on or before the date that defendants file their opposition to plaintiff's motion;

WHEREAS, defendants have consented to the City of New York's request for leave to file an amicus brief;

IT IS HEREBY STIPULATED AND AGREED, by and among the City of New York, plaintiff and defendants, subject to the approval of the Court, that:

1. The City of New York is granted leave to file an amicus brief on behalf of the City of New York and other governmental entities and associations in support of the defendants in response to plaintiff's Motion.

2. The City of New York's amicus brief shall be served and filed on or before July 31, 2008.

So Stipulated:

Dated: July 17, 2008

NEW YORK CITY LAW DEPARTMENT
Michael A. Cardozo,
Corporation Counsel of the City of New York

By: /s/ (Scott Pasternack)
Scott Pasternack
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Dated: July 16, 2008

ARNOLD & PORTER LLP

By: /s/ (Nancy Milburn)
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Dated: July 17 , 2008

DENNIS J. HERRERA
City Attorney

By: /s/ (Francesca Gessner)
Francesca Gessner
Deputy City Attorney
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PURSUANT TO THE STIPULATION, IT IS SO ORDERED:

Dated: _____

THE HONORABLE CLAUDIA WILKEN

SIGNATURE ATTESTATION

I hereby attest that I have on file all holograph signatures for any signatures indicated by a "conformed" signature (/s/) within this efiled document